

Appl. No. 10/649,852
Atty. Docket No. 8448R
Amdt. Dated 22 December 2005
Reply to Office Action of 07 October 2005
Customer No. 27752

AMENDMENTS TO THE DRAWINGS

The attached replacement sheets of drawings include changes to Figures 3A and 3B. These sheets, which include Figures 3A and 3B, replace original sheets 3 and 4 and therefore, Figures 3A and 3B. In both Figures 3A and 3B, the hatch-marked legends indicating "denervated leg" have been removed.

Applicants submit that these changes are consistent with and supported by the specification. No new matter is added.

Attachment: Formal Replacement Drawing Sheets 3 and 4

REMARKS

Claim Status

Claims 1 - 18 are pending in the present application. No additional claims fee is believed to be due.

Claims 11 to 18 have been withdrawn as a result of an earlier restriction requirement are canceled herein without prejudice.

Claim 1, in subsection (c), is amended to replace the term "increases" with "regulates." Support for the amendment is found, at least, at page 34, Section VII, lines 2-4 of the specification.

Claim 1, in subsection (d), is amended to replace the term "modulates" with "regulates." Support for the amendment is found, at least, at page 34, Section VII, lines 2-4 of the specification.

Claim 3 is herein amended to remove the non-elected subject matter.

Claim 7, in subsection (d), is amended to replace the term "increases" with "regulates." Support for the amendment is found, at least, at page 34, Section VII, lines 2-4 of the specification.

Claim 7, in subsection (e), is amended to replace the term "modulates" with "regulates." Support for the amendment is found, at least, at page 34, Section VII, lines 2-4 of the specification.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Objections

Objections to the Disclosure

The Office Action states that Figures 3A and 3B indicate "denervated leg" as indicated by hatch-marked columns; however, no columns with hatch marks are shown in

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the figures. The attached replacement sheets of drawings include changes to Figures 3A and 3B. These sheets, which include Figures 3A and 3B, replace original sheets 3 and 4 and therefore, Figures 3A and 3B. In both, Figures 3A and 3B, the hatch-marked legend indicating "denervated leg" has been removed.

Applicants submit that these changes are consistent with and supported by the specification. No new matter is added.

The disclosure is objected to for allegedly using various trademarks that are not capitalized and not accompanied by the generic terminology. The Office Action cited the following examples: FLEXX (page 27, not 57 as the Office Action alleges), DMEM (page 41), MEM (page 42) HBSS and Luciferase Assay Buffer and Luciferase Assay Substrate (page 43). Applicants have made amendments to the disclosure with this response that capitalizes and identifies these trademarks. Applicants have also made amendments with this response that capitalizes and identifies trademarks that were not cited by the Office, namely, PACKARD VIEW PLATE-96TM, and DOCKTM.

However, Applicants submit that the terms MEM, DMEM, or HBSS are not trademarks. Applicants submit that these biological media, namely, modified Eagle's medium (MEM), Delbacco's modified Eagle's medium (DMEM), or Hanks'-buffered salt solution (HBSS) have been in public use for more than 50 years and various companies manufacture and sell them using these abbreviated names. Therefore, Applicant's respectfully submit that these objections should be withdrawn.

Objections to the claims

Claim 3 is objected to for allegedly being drawn to non-elected inventions. Applicants have amended claim 3 to remove non-elected subject matter and submit that claim 3 is in proper form, as amended.

Objections to the Information Disclosure Statement

The Office Action alleges that Information Disclosure Statement filed on 07 January 2004, fails to comply with 37 CFR §1.98(a)(2), which requires a legible copy of each cited foreign patent document. The Office Action further alleges that reference #12

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does not include a Volume number and the year of publication, and reference #15 does not include the year of publication. Applicants are separately submitting a supplemental Information Disclosure Statement providing the Examiner with legible copies of the foreign patent documents and providing correct citations for references, #12, and #15, including, their Volume number, and their year of publication.

Double Patenting

The Office Action has rejected claims 1, 2, 4, 5, and 7-10, under the judicially created doctrine of obviousness-type double patenting, as allegedly being unpatentable over claims 1, and 6-17, of US Patent No. 6,670,140 B2. Further, claim 6 is rejected under the judicially created doctrine of obviousness-type double patenting, as allegedly being unpatentable over claim 13 in US Patent No. 6,670,140 B2, in view of McDonnell et al. (1998, Br. J. Pharmacol. 125, 717). Without commenting on the validity of the allegations and merely in order to expedite prosecution, Applicants herewith provide a Terminal Disclaimer in compliance with 37 CFR §1.321(c), and request that the rejections based on obviousness-type double patenting be withdrawn.

Art Cited as of Interest

Applicants take notice of the art cited and made of record that is considered pertinent, but not relied upon by the Examiner. The Examiner summarizes the art stating that Dautzenberg et al. do not disclose a relationship between activation of CRF-R2 and increasing muscle mass or function in a skeletal muscle atrophy [model] system.

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Conclusion

This response represents an earnest effort to place the application in proper form. In view of the foregoing, reconsideration of this application and allowance of claims 1-10 is respectfully requested.

Respectfully Submitted,

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